Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

REPLY COMMENTS OF THE
SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION

The Federal Communications Commission ("FCC" or "Commission") released a *Report and Order ("Report and Order") and Further Notice of Proposed Rulemaking ("Further Notice")* in these proceedings on November 18, 2011 adopting new rules and proposing possible additional reforms related to the federal universal service fund ("USF") and intercarrier compensation ("ICC").[1] In response to the Commission's *Further Notice*, specifically, the Rural Associations (NECA, NTCA, OPASTCO and WTA) have filed Initial Comments addressing many of the

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[1] *In the Matter of Connect America Fund,* WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, (Rel. Nov. 18, 2011). ("*Report and Order*") and ("*Further Notice*").

proposed additional reforms.[2] As an association in South Dakota representing all of this State's rural incumbent local exchange carriers ("SD RLECs"), SDTA continues to support and agree with the arguments, positions, and specific alternative reform proposals submitted by the Rural Associations, including those related to intercarrier compensation. With these Reply Comments, SDTA provides supplemental data and argument on several of the items addressed within the Rural Associations' earlier filed Initial Comments on the ICC issues.

I. SDTA Member Company Information

SDTA's membership includes all of South Dakota's rural incumbent local exchange carriers ("RLECs"). The membership includes 12 companies that are rural telephone cooperatives, 5 local exchange carriers that are owned by and affiliated with these cooperatives, 3 municipally-owned telephone companies, 1 tribally-owned telecommunications company, and 4 privately-held rural telephone companies which are either locally-based or which have local facilities in the State of South Dakota. The RLECs' service areas cover approximately 80% of the State's geographic area, consisting of an area of approximately 62,162 square miles. The average customer density throughout the RLECs' service areas is approximately 2.3 customers per square mile. The smallest incorporated town, the town of Hillsview, and the largest city, the city of Brookings, served by the RLECs, have populations of 3 and 18,504 residents, respectively.

[2] *See*, Initial Comments of the National Exchange Carriers Association, Inc.; National Telecommunications Cooperative Association; Organization for the Promotion and Advancement of Small Telecommunications Companies; and the Western Telecommunications Alliance on Sections XVII.L-R (Intercarrier Compensation Issues), dated February 24, 2012, and Initial Comments of the National Exchange Carriers Association, Inc.; National Telecommunications Cooperative Association; Organization for the Promotion and Advancement of Small Telecommunications Companies; and the Western Telecommunications Alliance, dated January 18, 2012.

As of the fourth quarter of 2010, SDTA's members served 134,365 access lines.[3] As SDTA noted in earlier comments filed with the Commission responding to the initial Notice issued by the Commission related to the "National Broadband Plan," SDTA's members invested over $133,196,000 in capital expenditures in 2008 and 2009 and were projected to invest, over the 2010-2011 two-year time frame, approximately $91,966,000.[4] In 2009, the RLECs collectively had over $29,100,000 in annual loan principal and interest payments. In most cases, the RLECs were the first companies to provide basic telephone services to the rural communities that they serve, and they have existed in these areas as the only "Carrier of Last Resort" ("COLR") for fifty (50) years or more. In addition to basic telephone services, all of the RLECs also provide access to broadband service to almost 100% of their customers via a variety of broadband delivery technologies, including Digital Subscriber Line (DSL), Cable Modems, Fiber-to-the-Premises, and wireless technologies. Deployment of DSL, one of the primary broadband delivery technologies, started in the late 1990s in South Dakota and became widespread by the early 2000s. Since that time, the RLECs have deployed broadband facilities steadily, and now almost 100% of customers within their service areas have broadband Internet access.

Federal universal service support and intercarrier compensation revenues have been critical in enabling the RLECs to make the facility investments necessary to deploy high quality voice and broadband services. Presently, the RLECs members of SDTA receive, on average, approximately 24 percent of their total regulated revenues from federal universal service support and 28 percent of total regulated revenues from intercarrier compensation (including

[3] This access line count number is taken from the USAC document "High Cost Loop Support Projected by State by Study Area Fourth Quarter 2010" and includes study areas served by SDTA member incumbent local exchange carriers.

[4] *See*, Comments of SDTA, *In the Matter of Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *High-Cost Universal Support*, WC Docket No. 05-337, (filed July 12, 2010) at p. 3.

special access).[5] The RLECs' voice and broadband networks would not exist as they do today without the assistance that has been provided through the federal universal service support mechanisms and the revenues provided through intercarrier compensation payments.

II. Any Federally Mandated Reductions in Originating Access Rates or Tandem Switching and/or Transport Charges Must Be Coupled with Sufficient Alternative Recovery Mechanisms.

As noted in the Initial Comments of the Rural Associations addressing ICC issues raised in the FNPRM:

> . . . [t]he questions and proposals presented in the FNPRM on intercarrier compensation ("ICC") reform implicate the fundamental mission of universal service . ... Whatever one's perspective on the mechanics of the system, ICC has been an essential component of promoting universal service in high-cost areas by helping to keep end-user rates low and enabling network investment and maintenance. If ICC revenues are substantially reduced (or driven to zero) by regulatory fiat and without a meaningful alternative for cost recovery (beyond merely piling yet more costs atop consumers in high-cost areas), rural rate-of-return regulated local exchange carriers ("RLECs) will not be able to sustain the previous progress they have made in deploying high-quality advanced networks. In turn, consumers in these high cost areas could see their broadband and voice services fall behind with respect to availability, quality and affordability. Likewise, if interconnection obligations are not defined carefully in the context of ICC reform and RLECs face substantially increased transport costs, they will be unable to provide reasonably comparable rates in high-cost areas.
>
> Therefore, it is essential that the Commission methodically align ICC reform with high cost USF reform and the core principles of universal service to avoid massive disruption to rural consumers and carriers. . . . The two processes must be thoughtfully calibrated, with corresponding examination and analyses of the impacts that reform measures (both those already adopted and those still being considered) will have on consumers and carriers of last resort ("COLRs").[6]

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[5] It should be noted that these percentages are based on both 2009 and 2010 data. The intercarrier compensation percentage, specifically, reflects a comparison of only billed switched and billed special access revenues to total regulated revenues (for 23 of SDTA's 25 member companies, representing 95 percent of total SDTA member company access lines or working loops). If the special access revenues are removed and only billed switched access and reciprocal compensation revenues are included, the intercarrier compensation percentage in relation to total regulated revenues is 18 percent.

[6] *See*, Initial Comments of the National Exchange Carriers Association, Inc.; National Telecommunications Cooperative Association; Organization for the Promotion and Advancement of Small Telecommunications Companies; and the Western Telecommunications Alliance on Sections XVII.L-R (Intercarrier Compensation Issues) (filed Feb. 24, 2012) at pp. 2-3.

As SDTA has indicated in past comments to this Commission, South Dakota's RLECs have, very substantially, relied on intercarrier compensation in building out broadband facilities and in maintaining and operating their current networks. As previously noted, the South Dakota RLECs receive approximately 28 percent of their total regulated revenues from intercarrier compensation.[7] Application of a "bill-and-keep" mechanism to all access rate elements as proposed in the *Further Notice*, and the resulting total elimination of all intercarrier compensation, would result in an estimated total revenue loss to the South Dakota RLECs, as a group, of over $37 million (approximately $37,620,084) which translates to an average per-line, per-month impact of $24.51.[8] The impact of such extreme rate reductions on individual RLECs in the State would vary substantially. For many of the companies, the per-line, per-month impact would be even greater. In regards to originating access specifically, revenues from originating switched access charges (both interstate and intrastate) as of 2010 were estimated at $15,809,706 annually accounting for approximately 42 percent of total intercarrier compensation revenue. This amount translates to an average per-line, per-month impact of approximately $10.30.

Very clearly, the adoption of any further proposals to reduce intercarrier compensation (in addition to the already mandated reductions in terminating access and reciprocal compensation rates) would have severe negative consequences for all of the RLECs in South Dakota and their rural customers. End user rates simply could not rise to levels needed to replace the additional revenue losses and remain competitive; rates at such levels would obviously no longer be "reasonably comparable" to urban rates as is required under federal law. Further, the revenue losses associated with the expansion of "bill-and-keep" would impact the RLECs' ability to

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[7] As noted earlier, this number reflects billed and not settlement revenue.

[8] These numbers reflect billed intercarrier compensation data received from 23 of SDTA's 25 member companies, representing 95 percent of total SDTA member company access lines or working loops.

maintain and operate their current networks, meet their existing loan commitments, and undoubtedly would make it almost impossible for the carriers to continue with network upgrades and advance their broadband service offerings.

SDTA agrees with the Rural Associations that moving to an "end state" of "bill-and-keep" for all intercarrier compensation is an unacceptable result as a matter of law and good economic policy. As noted in the Rural Association comments:

> ICC reform cannot be sustained as a matter of law or policy unless it is ensured that local service rates in rural areas will indeed stay reasonably comparable to rates in urban areas and that "additional costs" are in fact being recovered through some combination of remaining ICC rates, end-user rates (provided those remain reasonably comparable) and/or explicit support (including, but not limited to, a "Recovery Mechanism" or "CAF ICC support"). In contrast, even it were good policy (which it is not) that all costs of providing services to other carriers should be recovered only through a combination of explicit support and/or end user rates, the Commission presumption that such "additional costs" can recovered, in part or in whole, from end users is accompanied by no indication, let alone evidence, that it has evaluated the likelihood that end user rates will then in fact remain affordable, or "reasonably comparable" thereafter.[9]

Because of the significant additional revenues that are currently received by RLECs from originating access charges and tandem switching and transport rate elements, it is essential that any further FCC reforms mandating intercarrier rate reductions be paired with a "robust and compensatory" Recovery Mechanism.[10] A Restructure Mechanism that contributes to intercarrier compensation rate reductions along the lines advocated by the Rural Associations

[9] *See*, Initial Comments of the National Exchange Carriers Association, Inc.; National Telecommunications Cooperative Association; Organization for the Promotion and Advancement of Small Telecommunications Companies; and the Western Telecommunications Alliance on Sections XVII.L-R (Intercarrier Compensation Issues) (filed Feb. 24, 2012) at p. 5.

[10] It has been suggested by some parties in this proceeding that any mandated reductions to originating intrastate access charges should be replaced through intrastate universal service funds. In regards to such claims, there is currently no such fund in South Dakota, despite the fact that on a number of occasions the South Dakota RLEC industry has undertaken efforts to propose legislation and lobby the South Dakota legislature to establish a state universal service fund to facilitate rate rebalancing. In addition, it is important to note that South Dakota's low population, its relatively low statewide total access line count, and its very high cost characteristics, make it much more difficult to sufficiently offset the negative impacts of further rate rebalancing without federal assistance.

must be adopted to ensure that RLECs are able to keep retail local service and broadband rates affordable, and at the same time, provide high quality services to their rural area customers.

III. The Commission, as Part of Any Further ICC Reforms, Must Also Guard Against the Imposition of Significant Additional Transport Costs on Rural Carriers and Rural Area End Users.

In regard to any further implementation of "bill-and-keep" by the Commission with respect to further intercarrier rates or rate elements, SDTA agrees with the Rural Associations that, absent well-defined interconnection rights and obligations, larger carriers will be incented to dictate distant points of interconnection with smaller rural carriers and will attempt to transfer significant additional transport costs onto the backs of rural consumers. Any such attempts by interconnecting carriers to further shift transport costs to rural consumers (on top of receiving the benefit of access and reciprocal compensation rate reductions) would be patently unfair to rural carriers and would seriously undermine universal service efforts. In the first instance, permitting such a result ignores the smaller local calling areas and more limited service areas and networks of rural carriers, and effectively, works to put rural carriers at a competitive disadvantage. Effectively, RLECs would be forced to build out their networks into areas where they do not presently serve, and into areas where they likely will never serve for the sole purpose of allowing larger carriers to gain an unfair competitive advantage over RLECs by shifting their costs onto RLEC subscribers. Moreover, the imposition of transport responsibilities on smaller rural carriers, far beyond the actual boundaries of their service areas, would have serious negative financial impacts undermining this Commission's core universal service objectives. Under the universal service and ICC reforms already adopted by this Commission, especially for rural ROR carriers, there are substantial cost recovery shifts from intercarrier compensation to end-user rates. If the FCC proceeds ahead with further ICC reforms, it must also, as pointed out by the

Rural Associations, take certain steps to ensure that RLECs will not be further burdened with additional interconnection and transport obligations.

More specifically, SDTA would urge the Commission in any further order arising out of the FNPRM to take the "four additional steps" set forth in the Rural Associations' Initial Comments, clarifying precisely how the Section 251 and 252 framework applies under a bill-and-keep approach.[11] Most importantly, the Commission must reaffirm that its governing framework for intercarrier compensation restricts interconnection to technically feasible points on the ILEC's existing network and that interconnection is subject to the applicable exemptions, suspensions, and modifications that apply under section 251.[12] This statement would be consistent with the Commission's finding elsewhere in its *Order* that state commissions retain their essential roles and responsibility in defining network edges for purposes of interconnection. Also, the Commission "must clarify that the "rural transport rule" adopted in the *Order* applies to an RLECs' exchange of <u>all</u> section 251(b)(5) traffic with any carrier."[13] Specifically, the Commission should further "confirm via a "rural transport rule" that an RLEC's financial responsibility for transport of any and all telecommunications traffic is limited to the relevant exchange boundary of the RLEC."[14]

Even today in requesting interconnection of RLECs, many carriers refuse to give any recognition to the more limited RLEC service areas and networks arguing in certain cases that rural LECs should be responsible for the provisioning of transport extending hundreds of miles outside their service area. Other carriers, for instance, often take the position that they should

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[11] *Id.* at pp. 23-27.

[12] *Id.* at p. 25.

[13] *Id.*

[14] *Id.* at p. 26.

only have to meet incumbent LECs, including rural LECs, for purposes of exchanging local telecommunications traffic, at a single location within the "Local Access and Transport Area" ("LATA") or within the Metropolitan Trade Area ("MTA"). These carriers further argue that rural LECs should bear the full cost of the backbone transport facilities that are needed to reach this single location. This insistence on the part of other carriers for interconnection at a point anywhere within the LATA or MTA, without regard to the actual rural LEC networks or service areas, is especially unsettling for South Dakota's rural telephone companies because South Dakota is essentially a one LATA state and the relevant MTA boundaries extend far beyond the borders of South Dakota to also cover locations as far away as Denver and Minneapolis. The potential impact of these types of requests, if rural carriers are forced to comply, would be very significant. The attached maps are intended to illustrate this impact.

The map marked as "Attachment 1" is intended to show the effect on West River Cooperative Telephone Company ("West River") which has its main business office in Bison, South Dakota. As indicated by the company data shown on that map, West River currently serves approximately 3,479 loops, located over a service area of approximately 6,209 square miles (within South Dakota, North Dakota and Montana). The company's density number sits at about 0.56 loops per square mile. Presently, West River is a member company of SDN Communications and its long distance traffic reaches the SDN Communications tandem through the use of certain fiber ring transport facilities that run through its service area. If West River were required to deliver and receive local traffic exchanged with other interconnecting carriers at a location in Sioux Falls, the transport route miles on the shortest fiber ring route would be approximately 614 miles. The airline miles distance is approximately 360 miles. Given the number of carriers that would desire such interconnection and anticipated traffic volumes, even narrowband traffic exchange over such distances would result in substantial additional transport costs.

The map provided as "Attachment 2" provides another example showing the significance of the issue to the Kennebec Telephone Company which has its offices in Kennebec, South Dakota. Kennebec presently serves 743 loops over a service area which covers approximately 742 square miles. Its meet point with the backbone transport facilities of SDN Communications is approximately 160 airline miles from Sioux Falls. The actual transport route miles that would be associated with Kennebec Telephone delivering and receiving local telecommunications traffic at the SDN tandem switch location in Sioux Falls would be approximately 425 miles, assuming the shortest distance over the established fiber ring network facilities. It could also be expected in the case of Kennebec Telephone, given the number of carriers that would desire such interconnection and the expected traffic amounts, that substantial additional transport costs would be imposed.

As the Rural Associations have appropriately emphasized, as part of any further universal service and ICC reforms, the interconnection rights and obligations of RLECs need to be specifically addressed and steps must be taken to guard against imposing additional transport burdens on RLECs and RLEC end users.

VII. Conclusion

SDTA appreciates the opportunity to submit Reply Comments on these important issues. SDTA respectfully requests that the Commission carefully consider the positions and argument set forth herein.

Respectfully submitted,

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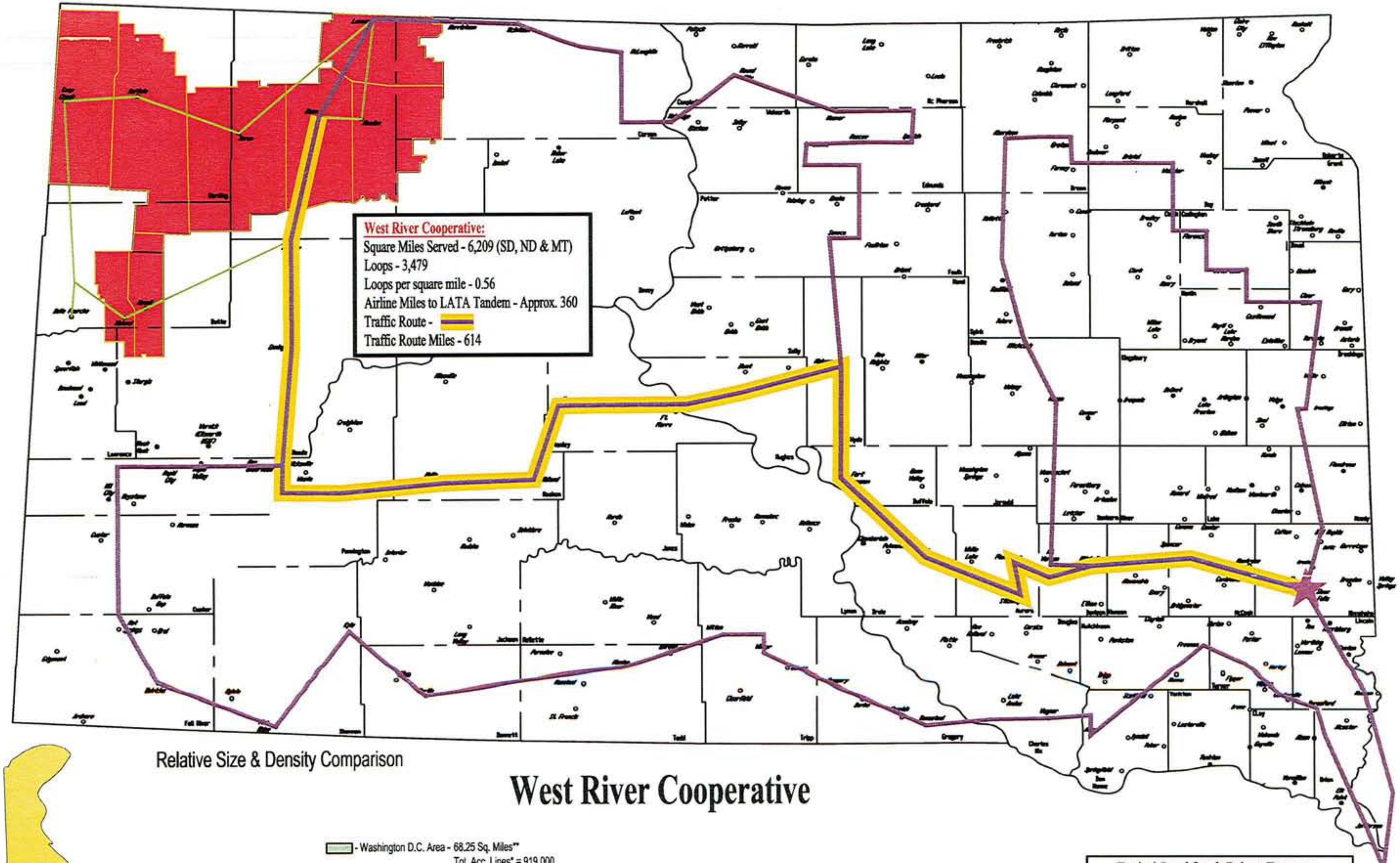
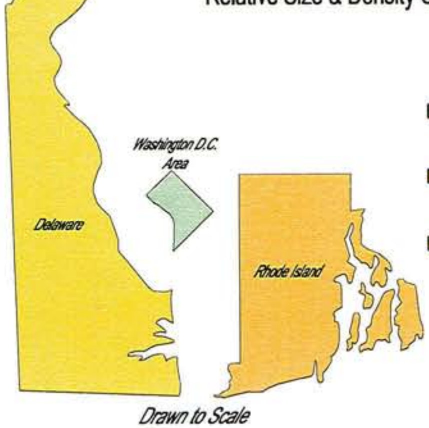
Rural LEC Transport Distances to the LATA Tandem



Typical Rural South Dakota Transport Construction Costs are $13,000 / Mi.

Relative Size & Density Comparison



Drawn to Scale

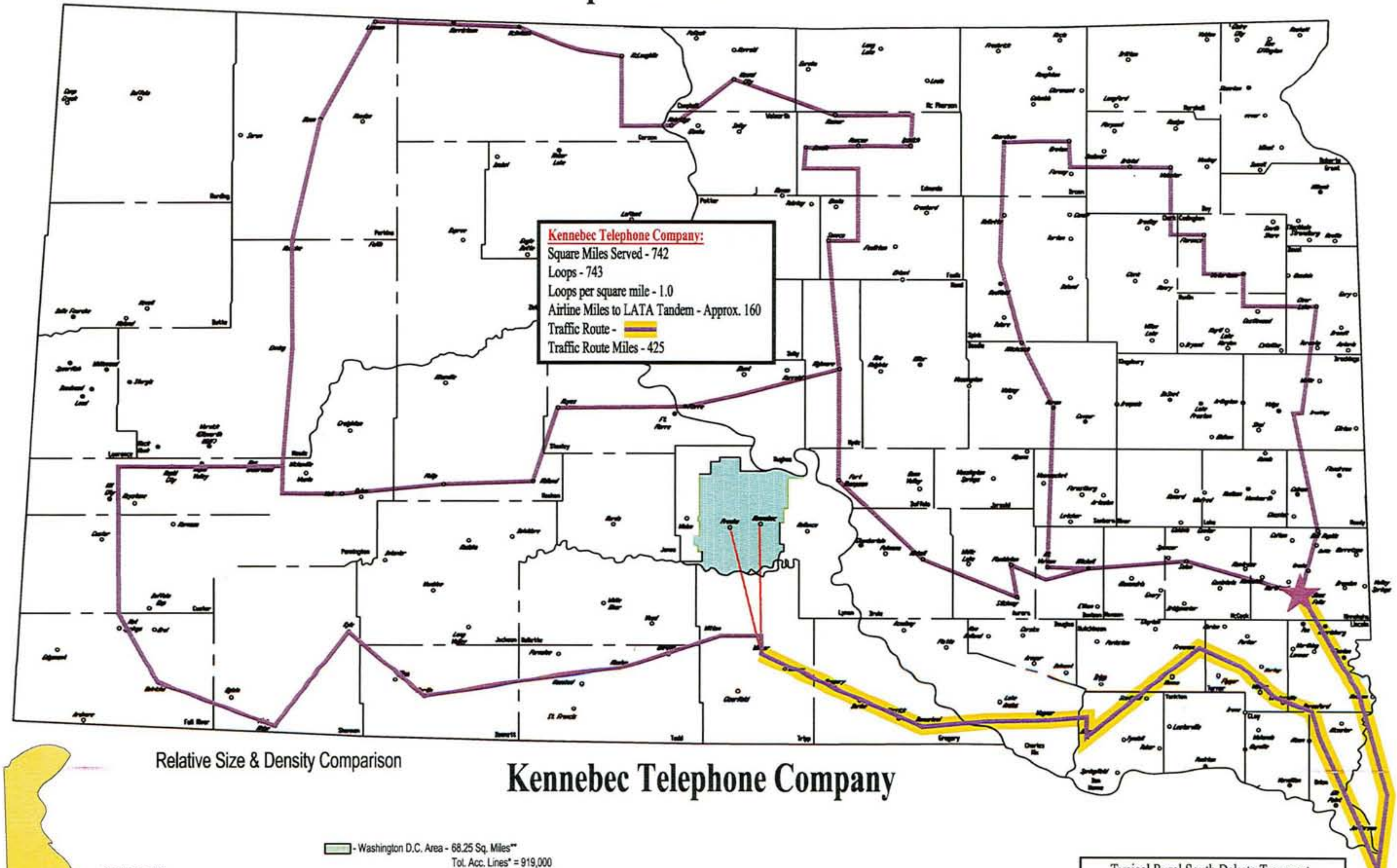
- Washington D.C. Area - 68.25 Sq. Miles**
  Tot. Acc. Lines* = 919,000
  Acc. Lines = 13,465 / Sq. Mi.
- Rhode Island Area - 1,545 Sq. Miles**
  Tot. Acc. Lines* = 608,000
  Acc. Lines = 394 / Sq. Mi.
- Delaware Area - 2,489 Sq. Miles**
  Tot. Acc. Lines* = 544,000
  Acc. Lines = 219 / Sq. Mi.
- South Dakota Area - 77,353 Sq. Miles**
  Tot. Acc. Lines* = 391,000
  Acc. Lines = 5 / Sq. Mi.

* - Source: Industry Analysis Technology Division, Wireline Competition Bureau, *Trends in Telephone Service* (September 2010)
** - Source: US States: Area Ranking, *US States(plus Washington D.C.) Area and Ranking*, http://www.enchantedlearning.com/usa/states/area.shtml (March 15, 2012)

Vantage Point

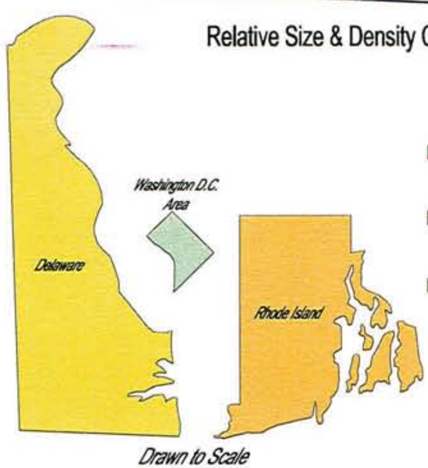
Attachment 1

Rural LEC Transport Distances to the LATA Tandem



Kennebec Telephone Company

Relative Size & Density Comparison



- Washington D.C. Area - 68.25 Sq. Miles**
  Tot. Acc. Lines* = 919,000
  Acc. Lines = 13,465 / Sq. Mi.
- Rhode Island Area - 1,545 Sq. Miles**
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- South Dakota Area - 77,353 Sq. Miles**
  Tot. Acc. Lines* = 391,000
  Acc. Lines = 5 / Sq. Mi.

Typical Rural South Dakota Transport Construction Costs are $13,000 / Mi.

* - Source: Industry Analysis Technology Division, Wireline Competition Bureau, *Trends in Telephone Service* (September 2010)
** - Source: US States: Area Ranking, *US States(plus Washington D.C.) Area and Ranking*, http://www.enchantedlearning.com/usa/states/area.shtml (March 15, 2012)

Vantage Point

Attachment 2